

Date

3-30-07

Bill No.

HB 820

**EXECUTIVE PRESENT LAW PROPOSALS**

Present law is defined in statute as "that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

- o Changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
- o Changes in funding requirements resulting from constitutional or statutory schedules or formulas;
- o Inflationary or deflationary adjustments; and
- o Elimination of nonrecurring appropriations."

As such, it incorporates a number of elements, with changes in caseload, enrollments, and populations; as well as annualizations of previous actions (i.e. the state employee pay plan) the most likely to cause the greatest change.

The executive proposes \$471.0 million in general fund present law adjustments in the 2009 biennium. This is an unusually high amount compared to recent biennia. Two of the out-of-the-ordinary factors that contribute to this large increase are:

- o Increases for K-12 education provided during the December 2005 Special Session
- o Changes in the percentage of Medicaid costs that the federal government will pay.

There are also two primary factors that inflate this total beyond the amount necessary to maintain services at the level established by the last legislature:

- o The executive includes at least \$78 million general fund for proposals that should have been classified as new initiatives for legislative prioritization; this issue is discussed in more detail in the "Executive New Initiatives" section that follows, page 151
- o LFD analysis concludes that the executive overstates the amount of present law adjustments necessary to maintain services in five areas, as shown in the following table; the table includes both general fund and I-149 (tobacco tax) funds, which have flexibility of use for a number of purposes for legislative prioritization for which general fund is the primary alternative; please note that this table includes only the major overstated present law adjustments

Each of these elements is discussed in more detail in the relevant sections of the agency narratives in Volumes 3, 4, and 6.

**LFD  
ISSUE**

As a result of both the mischaracterization of certain new proposals and overstatement of present law required, the executive has overstated the amount of funds necessary to maintain government at the level authorized by the last legislature by at least \$100 million.

**Figure 14**

Executive Present Law Adjustments  
in Excess of LFD Estimates  
General Fund and I-149 Funding, Only  
2009 Biennium

Functions	Amount
Corrections Populations	\$20,000,000
Medicare Buy-In	600,000
Nursing Homes	*
Foster Care	3,000,000
Big Sky Rx**	8,400,000
Total	\$32,000,000

\*LFD estimates of nursing home days is lower than the executive. However, the source of the funding is not clear.

\*\*I-149 (tobacco tax) funds

## INFLATION/DEFLATION

Statute requires the governor to submit a present law budget, with "present law" defined as "that additional level of funding needed to maintain operations and services at the level authorized by the previous legislature". The statutory definition includes inflationary and deflationary adjustments. The executive budget does not include a general inflation factor for all operating expenses, but instead applies an inflation or deflation factor to fiscal 2006 expenditures for only 26 specific operating items out of the 531 items contained in the budget request.

Figure 21 shows the executive budget inflation and deflation factors and the items to which they are applied. Of the 26 items, the five deflated items are services purchased from other state agencies, and payments for these items or services go into a proprietary account. The legislature sets the rates that other state agencies must pay for the items or services, and thus determines the fund levels maintained in proprietary accounts. Of the 21 items that are inflated, 14 are related to food. The largest inflationary increase in percentage terms is for "In-state State Motor Pool" and "Motor Pool Leased Vehicles". Although the Executive Budget noted increases of 19.6 and 14.7 percent for FY 2008 and FY 2009, respectively for these two items, the actual increases are 39.0 percent and 41.0 percent. The largest inflationary increase in dollar terms is for natural gas, adding \$5.1 million to the total biennial budget.

Figure 21  
Inflation and Deflation Factors  
Executive Budget 2009 Biennium

Account	Item Name	Percentage Change From Fiscal 2006 Base		State Agencies		University System		Total	
		Fiscal 2008	Fiscal 2009	Fiscal 2008	Fiscal 2009	Fiscal 2008	Fiscal 2009	Fiscal 2008	Fiscal 2009
<b>Inflation</b>									
62205	Food	4.60%	6.40%	\$40,418	\$56,233	\$6,045	\$8,411	\$46,463	\$64,644
62225	Books & Reference Material	14.00%	21.90%	130,610	204,311	362,883	567,652	493,492	771,963
62251	Meat	4.60%	6.40%	4,165	5,795	0	0	4,165	5,795
62252	Dairy	4.60%	6.40%	22,055	30,685	0	0	22,055	30,685
62253	Produce	4.60%	6.40%	9,253	12,874	0	0	9,253	12,874
62254	Bakery	4.60%	6.40%	1,803	2,508	0	0	1,803	2,508
62264	Grocery	4.60%	6.40%	49,696	69,143	0	0	49,696	69,143
62275	Poultry	4.60%	6.40%	2,603	3,622	0	0	2,603	3,622
62278	Beverages	4.60%	6.40%	6,536	9,094	383	533	6,919	9,626
62279	Red Meat	4.60%	6.40%	2,229	3,101	0	0	2,229	3,101
62288	Canned Goods	4.60%	6.40%	8,479	11,797	0	0	8,479	11,797
62289	Staples	4.60%	6.40%	10	14	0	0	10	14
62291	Sea Foods	4.60%	6.40%	1,997	2,778	0	0	1,997	2,778
62292	Pork	4.60%	6.40%	4,105	5,795	0	0	4,105	5,795
62298	Fish/Fish Eggs	4.60%	6.40%	2,951	4,105	0	0	2,951	4,105
62304	Postage & Mailing	4.60%	6.40%	1,907	2,778	1	1	1,371	1,908
62404	In-state State Motor Pool	39.03%	41.06%	444,630	622,774	89,890	127,890	534,520	750,664
62510	Motor Pool Leased Vehicle	39.03%	41.06%	843,782	1,172,158	1,984	2,087	845,766	1,174,245
62601	Electricity	5.20%	7.50%	1,114,207	1,192,158	0	0	1,114,207	1,192,158
62603	Natural Gas	31.00%	31.00%	272,274	392,703	277,055	399,598	549,328	792,301
63125	Library Books	14.00%	21.90%	1,095,432	1,328,281	1,462,357	1,862,357	2,557,790	3,190,638
	<b>Subtotal</b>			\$4,100,484	\$4,482,491	\$2,792,956	\$3,457,147	\$6,893,440	\$7,939,638
<b>Deflation</b>									
62142	Disk Storage Charges DofA	-4.40%	-4.40%	(\$42,206)	(\$42,206)	(\$0)	(\$0)	(\$42,206)	(\$42,206)
62172	Batch CPU Seconds DofA	-4.50%	-4.50%	(37,229)	(37,229)	(73)	(73)	(37,302)	(37,302)
62177	TSO CPU Seconds DofA	-4.50%	-4.50%	(8,185)	(8,185)	0	0	(8,185)	(8,185)
62178	IDMS CPU Seconds DofA	-4.50%	-4.50%	(87,924)	(87,924)	0	0	(87,924)	(87,924)
62180	CICS CPU Seconds DofA	-4.50%	-4.50%	(10,738)	(10,738)	0	0	(10,738)	(10,738)
	<b>Subtotal</b>			(\$186,281)	(\$186,281)	(\$73)	(\$73)	(\$186,355)	(\$186,355)
	<b>Net Change</b>			<b>\$3,914,202</b>	<b>\$4,296,209</b>	<b>\$2,792,883</b>	<b>\$3,457,074</b>	<b>\$6,707,085</b>	<b>\$7,753,283</b>

The total amounts shown for FY 2008 and 2009 (\$6.7 million and \$7.8 million, respectively) represent the total amount the "all funds" base budget was increased due to applying inflation adjustments. These amounts, by fiscal year, are shown in agency budgets as statewide present law adjustments in the present law adjustment table.

## FIXED COSTS

Several programs within state government provide services to support other functions of state government, for which they charge a fee. These types of programs are commonly called internal service programs. The legislature does not appropriate funds for the provider programs because they are utilizing internal service funds, which do not require appropriations. Instead, the legislature approves the maximum level of fees the programs may charge to generate revenue to fund operations. The appropriation to pay these fees is then provided to the paying agencies in HB 2. The funding is allocated to the paying agencies based upon set criteria, anticipated usage, and expenditures of the internal services programs. This funding is referred to as "fixed costs" and is part of the statewide present law adjustments in each agency. Nearly \$100 million is assessed to state agencies in the executive budget to pay these inter-service fees. Controlling the rates charged and the level of services provided can significantly impact the rate of growth in state expenditures.

Figure 20 details each of the internal service programs and the total fixed costs included in the executive budget in support of those functions. The figure also compares total costs in the executive budget in the 2009 biennium with costs budgeted in the 2007 biennium. All internal services programs for which a fixed cost is charged are in the Department of Administration, with the exception of the statewide cost allocation plan and the legislative audit function.

Figure 20  
Comparison of Fixed Costs  
2007 to 2009 Biennium  
(in Millions)

Subcommittee/Agency	Program	2007 Biennium	2009 Biennium	Difference	Percent
<b>General Government</b>					
Administration	Insurance and Bonds	\$28.9	\$25.8	(\$3.1)	-10.7%
	Warrant Writing Fees	1.6	2.0	0.4	25.0%
	Payroll Service Fees	0.9	1.0	0.1	11.1%
	Data Network Services	21.6	27.2	5.6	25.9%
	SABHRS Operating	12.7	13.4	0.7	5.5%
	Messenger Services	0.3	0.4	0.1	33.3%
	Web Services*	0.0	0.4	0.4	---
	Rent - Buildings	13.5	16.0	2.5	18.5%
	Grounds Maintenance	0.7	1.0	0.3	42.9%
Legislative Audit Division	Audit Fees	3.1	3.3	0.2	6.5%
Various	Statewide Cost Allocation/State Fund Allocation	3.7	5.6	1.9	51.4%
Total		\$87.0	\$96.1	\$9.1	10.5%

\*Beginning in FY 2009.

As shown, fixed costs increase by \$9.1 million (10.5 percent) in the 2009 biennium over the 2007 biennium appropriations. Funding for fixed costs is provided based upon the funding mix of the agency. Therefore, all funding sources of the agency are used. An estimated \$3.5 million of the costs in the table are funded with general fund.

There are two issues for legislative consideration: 1) the lack of justification for many of the fixed costs; and 2) the method used by the legislature for approving rates may need re-examination.